

AMENDED IN SENATE JUNE 13, 1996
AMENDED IN ASSEMBLY MARCH 21, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 2221

Introduced by Assembly Member Kevin Murray

February 9, 1996

An act to amend Section 10177.2 of the Business and Professions Code, *to amend Sections 1102 and 1102.3 of, and to add Section 1103 to 1102.6c to*, the Civil Code, to amend Section 18025 of, and to add Sections 18046 and 18046.1 to, the Health and Safety Code, relating to mobilehomes and manufactured housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2221, as amended, K. Murray. Mobilehomes and manufactured housing: consumer protection.

Under existing law, the Real Estate Commissioner may suspend or revoke a real estate license where the licensee, in connection with the sale of a mobilehome, commits certain specified acts, including the violation of prescribed provisions of the Health and Safety Code relating to mobilehomes and manufactured housing, the Revenue and Taxation Code, relating to vehicle license fees, and the Civil Code relating to the Automobile Sales Finance Act.

This bill would delete the references to the above provisions as grounds for the revocation or suspension of a real estate license.

Existing law requires specified written disclosures to be made to prospective transferees of real property in certain transactions. *Existing law provides a disclosure form for this purpose.*

~~This bill would add to those provisions a requirement that a seller of a manufactured home complete and deliver to a prospective buyer a written statement about the manufactured home as required by those provisions~~ *make these provisions applicable to transfers of manufactured homes and would provide a disclosure form specifically applicable to transfers of manufactured housing.*

Under existing law it is unlawful to sell, offer for sale, rent, or lease a manufactured home or mobilehome containing specified equipment or systems unless those systems meet requirements established by the Department of Housing and Community Development, with specified exceptions.

This bill would except the sale of used manufactured homes and mobilehomes from these provisions and would make those sales subject to other provisions added by this bill relating to the duty of a dealer of a used manufactured home to inspect and make specified disclosures relating to the condition of the home to a prospective purchaser.

This bill also would define the standard of care owed by a dealer of manufactured homes and mobilehomes to a purchaser to be that which a reasonably prudent dealer would exercise measured by the degree of knowledge through education, experience, and examination required to obtain a license pursuant to existing law.

Because this bill would amend existing law for which criminal penalties are prescribed and would add provisions the violation of which would be subject to criminal penalties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.



The people of the State of California do enact as follows:

SECTION 1. Section 10177.2 of the Business and Professions Code is amended to read:

10177.2. The commissioner may, upon his *or her* own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any licensee, and he may suspend or revoke a real estate license at any time where the licensee in performing or attempting to perform any of the acts within the scope of Section 10131.6 has been guilty of any of the following acts:

(a) Has used a false or fictitious name, knowingly made any false statement, or knowingly concealed any material fact, in any application for the registration of a mobilehome, or otherwise committed a fraud in ~~such~~ *that* application.

(b) Failed to provide for the delivery of a properly endorsed certificate of ownership or certificate of title of a mobilehome from the seller to the buyer thereof.

(c) Has knowingly participated in the purchase, sale, or other acquisition or disposal of a stolen mobilehome.

(d) Has submitted a check, draft, or money order to the Department of Housing and Community Development for any obligation or fee due the state and it is thereafter dishonored or refused payment upon presentation.

~~SEC. 2. Section 1103 is added to the Civil Code, to read:~~

~~1103. A seller of a manufactured home shall complete and deliver to a prospective buyer the written statement about the manufactured home required by this article.~~

SEC. 2. Section 1102 of the Civil Code is amended to read:

1102. (a) Except as provided in Section 1102.2, this article applies to any transfer by sale, exchange, installment land sale contract, as defined in Section 2985, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, of real property, or residential stock cooperative, improved with or consisting of not less than one nor more than four

1 dwelling units. *This article also applies to the resale of*
2 *manufactured homes, as defined in Section 18007 of the*
3 *Health and Safety Code.*

4 (b) Any waiver of the requirements of this article is
5 void as against public policy.

6 *SEC. 3. Section 1102.3 of the Civil Code is amended*
7 *to read:*

8 1102.3. The transferor of any real property *or any*
9 *manufactured home* subject to this article shall deliver to
10 the prospective transferee the written statement
11 required by this article, as follows:

12 (a) In the case of a sale, as soon as practicable before
13 transfer of title.

14 (b) In the case of transfer by a real property sales
15 contract, as defined in Section 2985, or by a lease together
16 with an option to purchase, or a ground lease coupled
17 with improvements, as soon as practicable before
18 execution of the contract. For the purpose of this
19 subdivision, “execution” means the making or
20 acceptance of an offer.

21 With respect to any transfer subject to subdivision (a)
22 or (b), the transferor shall indicate compliance with this
23 article either on the receipt for deposit, the real property
24 sales contract, the lease, or any addendum attached
25 thereto or on a separate document.

26 If any disclosure, or any material amendment of any
27 disclosure, required to be made by this article, is
28 delivered after the execution of an offer to purchase, the
29 transferee shall have three days after delivery in person
30 or five days after delivery by deposit in the mail, to
31 terminate his or her offer by delivery of a written notice
32 of termination to the transferor or the transferor’s agent.

33 *SEC. 4. Section 1102.6c is added to the Civil Code, to*
34 *read:*

35 1102.6c. *Transferors of manufactured homes may use*
36 *the disclosure form set forth in Section 1102.6 or the form*
37 *set forth in this section to fulfill the disclosure*
38 *requirements of this article.*

NOTE TO PRINTING OFFICE: INSERT
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Manufactured Housing Transfer Disclosure Statement

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~~SEC. 3.—~~

SEC. 5. Section 18025 of the Health and Safety Code is amended to read:

18025. (a) Except as provided in subdivisions (b) and (c), it is unlawful for any person to sell, offer for sale, rent, or lease within this state, any manufactured home or any mobilehome, commercial coach, special purpose commercial coach, or recreational vehicle manufactured after September 1, 1958, containing structural, fire safety, plumbing, heat-producing, or electrical systems and equipment unless the systems and equipment meet the requirements of the department for those systems and equipment and the installation of them. The department may promulgate those rules and regulations which shall be reasonably consistent with recognized and accepted principles for structural, fire safety, plumbing, heat-producing, and electrical systems and equipment and installations, respectively, in order to protect the health and safety of the people of this state from dangers inherent in the use of substandard and unsafe structural, fire safety, plumbing, heat-producing, and electrical equipment and installations.

(b) All manufactured homes and mobilehomes manufactured on or after June 15, 1976, shall comply with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C., Sec. 5401 et seq.).

(c) The sale of used manufactured homes and mobilehomes by a dealer licensed pursuant to this part shall be subject to Section 18046.

~~SEC. 4.—~~

SEC. 6. Section 18046 is added to the Health and Safety Code, to read:

18046. It is the duty of a dealer licensed under this chapter to a prospective purchaser of a used manufactured home to conduct a reasonably competent and diligent visual inspection of the home offered for sale and to disclose to that prospective purchaser all facts materially affecting the value or desirability of the home that an investigation would reveal, if that dealer has a written contract with the seller to find or obtain a

1 purchaser or is a dealer who acts in cooperation with
2 others to find and obtain a purchaser. A dealer may
3 discharge this duty by completing the dealer's portion of
4 the transfer disclosure statement that a seller prepares
5 and delivers to a purchaser pursuant to Section 1103 of the
6 Civil Code.

7 ~~SEC. 5.—~~

8 *SEC. 7.* Section 18046.1 is added to the Health and
9 Safety Code, to read:

10 18046.1. The standard of care owed by a dealer to a
11 purchaser under this article is the degree of care that a
12 reasonably prudent dealer would exercise and is
13 measured by the degree of knowledge through
14 education, experience, and examination required to
15 obtain a license under this chapter.

16 ~~SEC. 6.—~~

17 *SEC. 8.* No reimbursement is required by this act
18 pursuant to Section 6 of Article XIII B of the California
19 Constitution because the only costs that may be incurred
20 by a local agency or school district will be incurred
21 because this act creates a new crime or infraction,
22 eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section
24 17556 of the Government Code, or changes the definition
25 of a crime within the meaning of Section 6 of Article
26 XIII B of the California Constitution.

27 Notwithstanding Section 17580 of the Government
28 Code, unless otherwise specified, the provisions of this act
29 shall become operative on the same date that the act
30 takes effect pursuant to the California Constitution.